



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300  
DENVER, COLORADO 80202-2466

July 27, 2004

Ref: 8ENF-W

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Sheridan County Commissioners  
c/o Ky Dixon, Chair  
224 S. Main B-1  
Sheridan, Wyoming 82801

Re: Notice of Safe Drinking Water Act  
Enforcement Action against Cowboy State  
Bank/Arrowhead Lodge PWS #5600480

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Cowboy State Bank, Ranchester, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. Cowboy State Bank, as the owner/operator of Arrowhead Lodge, is in violation of 40 C.F.R. §§ 141.63(a)(2), 141.21(b), 141.21(g)(1), and 141.21(g)(2) and for: exceeding the maximum contaminant level for bacteriological quality, failure to sufficiently monitor bacteriological quality, and for failure to report SDWA violations to EPA.

A copy of the Order is enclosed for your information.  
The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Kathelene Brainich at (303) 312-6481.

Sincerely,  
**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance and  
Environmental Justice

Enclosure



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 300  
DENVER, COLORADO 80202-2466  
<http://www.epa.gov/region08>

July 27, 2004

Ref: 8ENF-W

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Allan R. Tormohlen, Registered Agent  
Cowboy State Bank  
515 Dayton Street  
Ranchester, WY 82801

Re: Administrative Order  
Docket No. **SDWA-08-2004-0038**  
PWS ID #5600480

Dear Mr. Tormohlen:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Cowboy State Bank ("Bank") is a supplier of water as defined by the SDWA and that the Bank has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.63(a)(2), 141.21(b), 141.21(g)(1), and 141.21(g)(2) for: exceeding the maximum contaminant level for bacteriological quality, failure to sufficiently monitor bacteriological quality, and for failure to report SDWA violations to EPA.

If the Bank complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering the Bank to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

A brochure entitled "Funding Options for Privately-Owned Public Water Systems in Wyoming" is also enclosed.



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Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Kathelene Brainich at the address on the letterhead and include the mailcode 8ENF-W, or call (800) 227-8917, extension 6481 or (303) 312-6481. If you wish to have in informal conference with EPA, you may also call or write Ms. Brainich. If you are represented by an attorney, please ask your attorney to direct any legal questions to Peggy Livingston, Enforcement attorney, at the above 800 number, extension 6858, or at (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,

**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures  
Order  
SBREFA  
Funding Brochure

cc: Donna Richards, Cowboy State Bank  
Gayle Laurant, Big Horn Forest Service  
Larry Robinson, WY DEQ  
Dr. Karl Musgrave, WDH



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

IN THE MATTER OF	)
	)
Cowboy State Bank	)
Ranchester, WY	)
	)
Respondent	)
	)ADMINISTRATIVE ORDER
Proceedings under Section 1414(g)	)
of the Safe Drinking Water Act,	)
42 U.S.C. § 300g-3(g)	) Docket No. <b>SDWA-08-2004-0038</b>
	)

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Cowboy State Bank (Respondent) is a corporation under the laws of the State of Wyoming as of May 1912 and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Arrowhead Lodge Water System (the "System"), located in Sheridan County, Wyoming for the provision to the public of piped water for human consumption.
3. The Arrowhead Lodge Water System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section



1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. §300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141.
5. According to a May 2002 sanitary survey by an agent for EPA, Respondent operates a ground water system that is supplied by one well. The System serves approximately 50 persons per day through 2 service connections throughout the year.

#### FINDINGS OF VIOLATION

##### I.

1. 40 C.F.R. § 141.21 requires any non-community public water system with an average daily population of less than 1,001 and having a groundwater source to monitor its water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(a)(2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as prohibiting more than one sample collected during the month from being positive for total coliform bacteria.



3. Monitoring results submitted by Respondent for the public water system during August and September 2003 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a)(2).

II.

1. 40 C.F.R. § 141.21(b) requires public water systems to collect no fewer than four repeat samples within 24 hours of being notified of a total coliform positive routine sample.
2. Respondent collected only one repeat sample after an August 2003 total coliform positive routine sample, in violation of 40 C.F.R. § 141.21(b).

III.

1. 40 C.F.R. § 141.21(g)(1) requires a public water system that has exceeded the MCL for total coliform in 40 C.F.R. § 141.63 to report the violation to EPA no later than the end of the next business day after it learns of the violation.
2. Respondent failed to report to EPA the total coliform MCL violations detailed in Section I, in violation of 40 C.F.R. § 141.21(g)(1).

IV.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA the instance of noncompliance detailed in Section II, in violation of 40 C.F.R. § 141.21(g)(2).

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ORDER



Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS

ORDERED:

1. If the System has a total coliform MCL violation within twelve months of the effective date of this Order, Respondent shall submit to EPA detailed plans for bringing Respondent's public water system into consistent compliance with the MCL for coliform bacteria at 40 C.F.R. § 141.63. This plan shall be submitted to EPA within 30 days of the total coliform MCL violation. The plan shall include proposed system modifications, estimated costs of modifications, and a schedule for construction of the project and compliance with the MCL for coliform bacteria. The proposed schedule shall include specific milestone dates, a final installation date that shall be within 9 months from the total coliform MCL violation, and it shall be submitted to EPA for approval. The plan must be approved by EPA and DEQ before construction/modifications can commence.
2. If a plan is required as outlined in paragraph 1 above, the schedule for construction and completion of modifications will be incorporated into this Order upon written approval by EPA.



3. If a plan is required as outlined in paragraph 1 above, Respondent shall submit to EPA quarterly reports on the progress made toward bringing Respondent's system into consistent compliance with the coliform bacteria MCL at 40 C.F.R. § 141.63. The first quarterly report shall be submitted to EPA within 90 days of the total coliform MCL violation referenced in paragraph 1 of this Section.
4. Upon the effective date of this Order, Respondent shall comply with all repeat sampling requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than 4 repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria. At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) at a tap within 5 service connections upstream of the original total coliform positive tap, and c) from a tap within 5 service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken from a tap anywhere within 5 service connections upstream or downstream of the original total coliform positive tap. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
5. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any total coliform MCL violation under 40 C.F.R. §





141.63 to EPA no later than the end of the next business day after Respondent learns of the violation .

6. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the Respondent discovers the violation.
7. Reporting requirements specified in this Order shall be provided by certified mail to:

Kathelene Brainich  
U. S. EPA Region VIII (8ENF-W)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$27,500 per day of violation under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).



3. Violation of any requirement of the SDWA or its implementing regulations may subject Respondent to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.  
Issued this \_\_\_\_ day of \_\_\_\_\_, 2004.

**David J. Janik**

Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON JULY 27, 2004.**

